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OFFICE OF PETITIONS

In re Application of :
Smith et al. :
Application No. 10/804,331 : DECISION GRANTING PETITION
Filed: March 19, 2004 :
Attorney Docket No. 9368.5 :

This is a decision on the petition filed November 24, 2004, requesting that the above-identified application be accorded a filing date of March 19, 2004. The petition was recently forwarded to the Office of Petitions. The undersigned rendered a decision on the merits of the petition immediately after receipt in the Office of Petitions. The Office sincerely apologizes for any inconvenience.

On March 19, 2004, applicants deposited the above-identified application. On September 27, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application," stating, *inter alia*, that the application had not been accorded a filing date as the application was deposited without any drawings and that the filing date would be the date of receipt of the omitted items.

In response, on November 24, 2004, applicants submitted, *inter alia*, the present petition, one sheet of drawings (Figure 1), and a returned, date-stamped postcard receipt. The postcard acknowledged receipt of 1 sheet of drawings in the United States Patent and Trademark Office (USPTO) on March 19, 2004.

Upon review of the record, the 1 sheet of drawings, deposited on March 19, 2004, has not been located among the application papers. However, the evidence is convincing that the application papers deposited on March 19, 2004, included 1 sheet of drawings, which was subsequently misplaced in the USPTO. Therefore, the application including the 1 sheet of drawings (Figure 1), was complete on filing and will be granted a filing date of March 19, 2004.

Accordingly, the petition is granted.

The requirement for drawings as set forth in the Notice of Incomplete was sent in error and is hereby withdrawn.

The Office of Initial Patent Examination is directed to **accord the above-identified application a filing date of March 19, 2004**, using the 1 sheet of drawings (Figures 1) submitted on November 24, 2004, and to mail a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
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Office of Petitions